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General Assembly

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Sixty-second session
Agenda item 78

Responsibility of States for internationally wrongful acts

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

I. Introduction

1. The item entitled "Responsibility of States for internationally wrongful acts" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to its resolution 59/35 of 2 December 2004.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 12th, 13th, 27th and 28th meetings, on 23 October and 12 and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.12, 13, 27 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General containing a compilation of decisions of international courts, tribunals and other bodies (A/62/62 and Corr.1 and Add.1);

(b) Report of the Secretary-General containing comments and information received from Governments (A/62/63 and Add.1).

II. Consideration of draft resolution A/C.6/62/L.20

5. At the 27th meeting, on 12 November, the representative of Poland, on behalf of the Bureau, introduced a draft resolution entitled "Responsibility of States for internationally wrongful acts" (A/C.6/62/L.20).

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6. At its 28th meeting, on 19 November, the Committee adopted draft resolution A/C.6/62/L.20 without a vote (see para. 7).

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Responsibility of States for internationally wrongful acts

The General Assembly,

Recalling its resolution 56/83 of 12 December 2001, the annex to which contains the text of the articles on responsibility of States for internationally wrongful acts, and further recalling its resolution 59/35 of 2 December 2004 commending the articles to the attention of Governments,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of responsibility of States for internationally wrongful acts is of major importance in relations between States,

Noting with appreciation the compilation of decisions of international courts, tribunals and other bodies referring to the articles, prepared by the Secretary-General,[1]

1. *Commends once again* the articles on responsibility of States for internationally wrongful acts, to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action;

2. *Requests* the Secretary-General to invite Governments to submit their written comments on any future action regarding the articles;

3. *Also requests* the Secretary-General to update the compilation of decisions of international courts, tribunals and other bodies referring to the articles and to invite Governments to submit information on their practice in this regard, and further requests the Secretary-General to submit this material well in advance of its sixty-fifth session;

4. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "Responsibility of States for internationally wrongful acts" and to further examine, within the framework of a working group of the Sixth Committee, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles.

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[1] A/62/62 and Corr.1 and Add.1.

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Sixty-second session
Agenda item 79

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

Report of the Sixth Committee

Rapporteur: Mr. Adam Mulawarman **Tugio** (Indonesia)

I. Introduction

1. The item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 60/19 of 23 November 2005.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 27th and 28th meetings, on 12 and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (see A/C.6/62/SR.27 and 28).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/62/503).

II. Consideration of draft resolution A/C.6/62/L.12

5. At the 27th meeting, on 12 November, the representative of Ghana introduced a draft resolution entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" (A/C.6/62/L.12) and orally revised operative paragraph 1 thereof by deleting the words "as well as the recommendations made by the Advisory Committee on the Programme of Assistance in the Teaching, Study, Dissemination and Wider

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Appreciation of International Law" after the words "report of the Secretary-General".

6. At its 28th meeting, on 19 November, the Committee adopted draft resolution A/C.6/62/L.12, as orally revised, without a vote (see para. 7).

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law and to an international order based on the rule of law and international law, which is essential for peaceful coexistence and cooperation among States,

Recalling its resolution 2099 (XX) of 20 December 1965, in which it established the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to contribute towards a better knowledge of international law as a means of strengthening international peace and security and of promoting friendly relations and cooperation among States,

Noting the significant contribution of the Programme of Assistance to a better knowledge of international law for more than four decades, as envisaged in the above-mentioned resolution,

Considering, nevertheless, that much remains to be done in this field,

Taking note with appreciation of the report of the Secretary-General on the implementation of the Programme of Assistance[1] and the views of the Advisory Committee on the Programme of Assistance, which are contained in that report,

Considering that international law should occupy an appropriate place in the teaching of legal disciplines at all universities,

Noting with appreciation the efforts made by States at the bilateral level to provide assistance in the teaching and study of international law,

Convinced, nevertheless, that States and international organizations and institutions should be encouraged to give further support to the Programme of Assistance and increase their activities to promote the teaching, study, dissemination and wider appreciation of international law, in particular those activities which are of special benefit to persons from developing countries,

Reaffirming that in the conduct of the Programme of Assistance it would be desirable to use as far as possible the resources and facilities made available by Member States, international organizations and others,

Reaffirming also the hope that, in appointing lecturers for the seminars to be held within the framework of the fellowship programmes in international law, account would be taken of the need to secure the representation of major legal systems and balance among various geographical regions,

[1] A/62/503.

1. *Approves* the guidelines and recommendations contained in section III of the report of the Secretary-General,[1] in particular those designed to achieve the best possible results in the administration of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law within a policy of maximum financial restraint;

2. *Authorizes* the Secretary-General to carry out in 2008 and 2009 the activities specified in his report, including the provision of:

(a) A number of international law fellowships in both 2008 and 2009, to be determined in the light of the overall resources for the Programme of Assistance and to be awarded at the request of Governments of developing countries;

(b) A minimum of one scholarship in both 2008 and 2009 under the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, subject to the availability of new voluntary contributions made specifically to this fellowship fund;

(c) Subject to the overall resources for the Programme of Assistance, assistance in the form of a travel grant for one participant from each developing country, who would be invited to possible regional courses to be organized in 2008 and 2009;

and to finance the above activities from provisions in the regular budget, when appropriate, as well as from voluntary financial contributions earmarked for each of the activities concerned, which would be received as a result of the requests set out in paragraphs 18 to 20 below;

3. *Expresses its appreciation* to the Secretary-General for his constructive efforts to promote training and assistance in international law within the framework of the Programme of Assistance in 2006 and 2007, in particular for the organization of the forty-second[2] and forty-third[3] sessions of the International Law Seminar, held at Geneva in 2006 and 2007, respectively, and for the activities of the Office of Legal Affairs of the Secretariat related to the International Law Fellowship Programme and to the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, carried out, respectively, through its Codification Division and its Division for Ocean Affairs and the Law of the Sea;

4. *Requests* the Secretary-General to consider admitting, for participation in the various components of the Programme of Assistance, candidates from countries willing to bear the entire cost of such participation;

5. *Also requests* the Secretary-General to consider the relative advantages of using available resources and voluntary contributions for regional, subregional or national courses, as against courses organized within the United Nations system;

6. *Further requests* the Secretary-General to continue to provide the necessary resources to the programme budget for the Programme of Assistance for the next and the future bienniums with a view to maintaining the effectiveness of the Programme of Assistance;

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[2] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10), chap. XIII, sect. F.

[3] Ibid., *Sixty-second Session, Supplement No. 10* (A/62/10), chap. X, sect. E.

7. *Recognizes* the importance of the United Nations legal publications prepared by the Office of Legal Affairs, and strongly encourages their continued publication;

8. *Welcomes* the efforts undertaken by the Office of Legal Affairs to bring up to date the United Nations legal publications;

9. *Also welcomes* the placing on the Internet of the *Reports of International Arbitral Awards*,[4] the *Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice*[5] and other legal information, as well as the expansion of the website of the International Law Commission[6] to include all its documentation;

10. *Further welcomes* the establishment of the website on the Programme of Assistance;[7]

11. *Notes* the need to safeguard and preserve the audiovisual history of legal developments within the United Nations, which constitutes an invaluable resource for promoting a better knowledge of international law;

12. *Notes with satisfaction* the efforts made by the Codification Division of the Office of Legal Affairs to revitalize, within available resources, the United Nations Audiovisual Library of International Law, and urges States to make voluntary contributions to enable the Codification Division to develop and maintain the Library;

13. *Welcomes* the training and technical assistance activities in international law undertaken by the Office of Legal Affairs in the framework of the Programme of Assistance, as described in the report of the Secretary-General, and encourages the continuation of such activities within available resources;

14. *Expresses its appreciation* to the United Nations Institute for Training and Research for its participation in the Programme of Assistance through the activities described in the report of the Secretary-General;

15. *Also expresses its appreciation* to the United Nations Educational, Scientific and Cultural Organization for its participation in the Programme of Assistance through the activities described in the report of the Secretary-General;

16. *Further expresses its appreciation* to The Hague Academy of International Law for the valuable contribution it continues to make to the Programme of Assistance, which has enabled candidates under the International Law Fellowship Programme to attend and participate in the Fellowship Programme in conjunction with the Academy courses;

17. *Notes with appreciation* the contributions of The Hague Academy to the teaching, study, dissemination and wider appreciation of international law, and calls upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of support and a possible increase in their financial contributions, to enable the Academy to carry out its activities, particularly those relating to the summer courses, regional courses and programmes

[4] Available from www.un.org/law/riaa.
[5] Available from www.un.org/law/ICJsummaries.
[6] www.un.org/law/ilc.
[7] www.un.org/law/programmeofassistance.

of the Centre for Studies and Research in International Law and International Relations;

18. *Requests* the Secretary-General to continue to publicize the Programme of Assistance and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme of Assistance or otherwise to assist in its implementation and possible expansion;

19. *Reiterates its request* to Member States and to interested organizations and individuals to make voluntary contributions, inter alia, for the International Law Seminar, the International Law Fellowship Programme, the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea and the United Nations Audiovisual Library of International Law, and expresses its appreciation to those Member States, institutions and individuals that have made voluntary contributions for this purpose;

20. *Urges* in particular all Governments to make voluntary contributions for the organization of regional courses in international law by the Codification Division of the Office of Legal Affairs, in collaboration with the United Nations Institute for Training and Research, especially with a view to covering the amount needed for the financing of the daily subsistence allowance for up to twenty-five participants in each regional course, thus alleviating the burden on prospective host countries and making it possible to continue to organize the regional courses;

21. *Decides* to appoint twenty-five Member States, six from Africa, five from Asia, three from Eastern Europe, five from Latin America and the Caribbean and six from Western European and other States, as members of the Advisory Committee on the Programme of Assistance for a period of four years beginning on 1 January 2008;[8]

22. *Requests* the Secretary-General to report to the General Assembly at its sixty-fourth session on the implementation of the Programme of Assistance during 2008 and 2009 and, following consultations with the Advisory Committee on the Programme of Assistance, to submit recommendations regarding the execution of the Programme of Assistance in subsequent years;

23. *Decides* to include in the provisional agenda of its sixty-fourth session the item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law".

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[8] The following States have been appointed members of the Advisory Committee on the Programme of Assistance: Canada, Colombia, Cyprus, Czech Republic, Ethiopia, France, Germany, Ghana, Iran (Islamic Republic of), Italy, Jamaica, Kenya, Lebanon, Malaysia, Mexico, Nigeria, Pakistan, Portugal, Russian Federation, Sudan, Trinidad and Tobago, Ukraine, United Republic of Tanzania, United States of America and Uruguay.

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Agenda item 80

Criminal accountability of United Nations officials and experts on mission

Report of the Sixth Committee

Rapporteur: Mr. Adam Mulawarman **Tugio** (Indonesia)

I. Introduction

1. The item entitled "Criminal accountability of United Nations officials and experts on mission" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/29 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 6th, 7th, 17th, 27th and 28th meetings, on 15 and 26 October and 12 and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (see A/C.6/62/SR.6, 7, 17, 27 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (A/60/980);

(b) Report of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission;[1]

(c) Note by the Secretariat on criminal accountability of United Nations officials and experts on mission (A/62/329).

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 54* (A/62/54).

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5. On the recommendation of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission, the Sixth Committee, at its 1st meeting, on 8 October, established a Working Group to continue the consideration of the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution 59/300, focusing on its legal aspects, taking into account the views expressed in the Ad Hoc Committee.

6. Also at its 1st meeting, the Sixth Committee elected Ms. Maria Telalian (Greece) as Chairperson of the Working Group. The Committee also decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group held 4 meetings, on 15, 16, 17 and 23 October.

7. At the 6th meeting, on 15 October, the Chairperson of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission introduced the report of the Ad Hoc Committee; and at the 17th meeting, on 26 October, the Chairperson of the Working Group presented an oral report on the work of the Working Group (see A/C.6/62/SR.6 and 17).

II. Consideration of draft resolution A/C.6/62/L.10

8. At the 27th meeting, on 12 November, the representative of Greece, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission" (A/C.6/62/L.10).

9. At the 28th meeting, on 19 November, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

10. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.10 without a vote (see para. 12).

11. The representative of Canada, also on behalf of Australia and New Zealand, made a statement in explanation of position after the adoption of the draft resolution (see A/C.6/62/SR.28).

III. Recommendation of the Sixth Committee

12. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Criminal accountability of United Nations officials and experts on mission

The General Assembly,

Recalling its resolution 59/281 of 29 March 2005, in which it endorsed the recommendation in paragraph 56 of the report of the Special Committee on Peacekeeping Operations[1] that the Secretary-General make available to the United Nations membership a comprehensive report on the issue of sexual exploitation and abuse in United Nations peacekeeping operations,

Noting that the Secretary-General, on 24 March 2005, transmitted to the President of the General Assembly a report of his Adviser concerning sexual exploitation and abuse by United Nations peacekeeping personnel,[2]

Recalling its resolution 59/300 of 22 June 2005 endorsing the recommendation of the Special Committee on Peacekeeping Operations[3] that a group of legal experts be established to provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized without due process,

Reaffirming the need to promote and ensure respect for the principles and rules of international law,

Reaffirming also that the present resolution is without prejudice to the privileges and immunities of United Nations officials and experts on mission and the United Nations under international law,

Reaffirming further the obligation of United Nations officials and experts on mission to respect the national laws of the host State, as well as the right of the host State to exercise, where applicable, its criminal jurisdiction, in accordance with the relevant rules of international law and agreements governing operations of United Nations missions,

Deeply concerned by reports of criminal conduct, and conscious that such conduct, if not investigated and, as appropriate, prosecuted, would create the negative impression that United Nations officials and experts on mission operate with impunity,

Conscious of the importance of protecting the rights of victims of criminal conduct, as well as ensuring adequate protection for witnesses, and noting the work

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[1] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part one, chap. III, sect. D.

[2] See A/59/710.

[3] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part two, chap. II, sect. N.

of the Ad Hoc Open-ended Working Group on Assistance and Support to Victims of Sexual Exploitation and Abuse,

Recalling its resolution 61/29 of 4 December 2006, establishing the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission,

Noting that the Special Committee on Peacekeeping Operations, in paragraph 75 of its report,[4] looked forward to the conclusions of the Ad Hoc Committee,

Having considered the report of the Group of Legal Experts established by the Secretary-General pursuant to resolution 59/300[5] and the report of the Ad Hoc Committee,[6] as well as the note by the Secretariat on criminal accountability of United Nations officials and experts on mission,[7]

Convinced of the need for the United Nations and its Member States to urgently take strong and effective steps to ensure criminal accountability of United Nations officials and experts on mission,

1. *Expresses its appreciation* for the work done by the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission and the Working Group of the Sixth Committee on the same subject;

2. *Strongly urges* States to take all appropriate measures to ensure that crimes by United Nations officials and experts on mission do not go unpunished and that the perpetrators of such crimes are brought to justice, without prejudice to the privileges and immunities of such persons and the United Nations under international law, and in accordance with international human rights standards, including due process;

3. *Strongly urges* all States to consider establishing to the extent that they have not yet done so jurisdiction, particularly over crimes of a serious nature, as known in their existing domestic criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State;

4. *Encourages* all States to cooperate with each other and with the United Nations in the exchange of information and in facilitating the conduct of investigations and, as appropriate, prosecution of United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature, in accordance with their domestic laws and applicable United Nations rules and regulations, fully respecting due process rights, as well as to consider strengthening the capacities of their national authorities to investigate and prosecute such crimes;

5. *Requests* the Secretariat to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and

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[4] A/61/19 (Part II). For the final text, see *Official Records of the General Assembly, Sixty-first Session, Supplement No. 19*.

[5] See A/60/980.

[6] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 54* (A/62/54).

[7] A/62/329.

behaviour and are aware that certain conduct may amount to a crime for which they may be held accountable;

6. *Urges* the Secretary-General to continue to take such other practical measures as are within his authority to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training for United Nations officials and experts on mission;

7. *Decides* that the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission shall reconvene from 7 to 9 and on 11 April 2008 for the purpose of continuing the consideration of the report of the Group of Legal Experts, in particular its legal aspects, taking into account the views of Member States and the information contained in the note by the Secretariat, and that the work shall continue during the sixty-third session of the General Assembly within the framework of a working group of the Sixth Committee;

8. *Requests* the Ad Hoc Committee to submit a report on its work to the General Assembly at its sixty-third session;

9. *Requests* the Secretary-General to bring credible allegations that reveal that a crime may have been committed by United Nations officials and experts on mission to the attention of the States against whose nationals such allegations are made, and to request from those States an indication of the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature, as well as the types of appropriate assistance States may wish to receive from the Secretariat for the purposes of such investigations and prosecutions;

10. *Also requests* the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution on the basis of information received from Governments, in particular with respect to paragraphs 3 and 9 above;

11. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "Criminal accountability of United Nations officials and experts on mission".

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Agenda item 81

Report of the United Nations Commission on International Trade Law on the work of its fortieth session

Report of the Sixth Committee

Rapporteur: Mr. Adam Mulawarman **Tugio** (Indonesia)

I. Introduction

1. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-second session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its fortieth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 11th, 12th and 28th meetings, on 22 and 23 October and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.11, 12 and 28).

3. For its consideration of the item, the Committee had before it the first part of the report of the United Nations Commission on International Trade Law on the work of its fortieth session.[1]

4. At the 11th meeting, on 22 October, the Vice-Chairperson of the United Nations Commission on International Trade Law at its fortieth session introduced the first part of the report of the Commission on the work of that session.

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17* (A/62/17 (Part I)).

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II. Consideration of proposals

A. Draft resolution A/C.6/62/L.16

5. At the 28th meeting, on 19 November, the representative of Austria, on behalf of Albania, Algeria, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria, Cameroon, Chile, China, Colombia, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, Ecuador, El Salvador, Estonia, Ethiopia, Finland, France, Gabon, Germany, Greece, Guatemala, Hungary, Iceland, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Mexico, Mongolia, Morocco, the Netherlands, Norway, the Philippines, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay, subsequently joined by Belize and Burkina Faso, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its fortieth session" (A/C.6/62/L.16).

6. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.16 without a vote (see para. 10, draft resolution I).

7. After the adoption of the draft resolution, the representatives of the United States of America, Canada and France made statements in explanation of position (see A/C.6/62/SR.28).

B. Draft resolution A/C.6/62/L.17

8. At the 28th meeting, on 19 November, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "Fiftieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958" (A/C.6/62/L.17).

9. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.17 without a vote (see para. 10, draft resolution II).

III. Recommendations of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the United Nations Commission on International Trade Law on the work of its fortieth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

Having considered the report of the Commission on the work of the first part of its fortieth session,[1]

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of the first part of its fortieth session;[1]

2. *Commends* the Commission for its work on the preparation of a legislative guide on secured transactions, which has been designed to facilitate

[1] A/62/17 (Part I). For the final text, see *Official Records of the General Assembly, Sixty-second Session, Supplement No. 17*.

secured financing, thus promoting increased access to low-cost credit and enhancing national and international trade, and notes with satisfaction that the Commission expects to complete that work in the nearest future;

3. *Welcomes* the progress made by the Commission in its work on a revision of its Model Law on Procurement of Goods, Construction and Services[2] and of the Arbitration Rules of the United Nations Commission on International Trade Law,[3] and on the preparation of a draft instrument on transport law and on future developments in insolvency law, and endorses the decision of the Commission to undertake further work in the area of security interests;

4. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law, as well as promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

5. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical assistance and cooperation in the field of international trade law reform and development, and in this connection:

(*a*) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical assistance and cooperation programme, and in that respect, encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work;

(*b*) Expresses its appreciation to the Commission for carrying out technical assistance and cooperation activities, including at the country, subregional and regional levels, and for providing assistance with legislative drafting in the field of international trade law;

(*c*) Expresses its appreciation to the Governments whose contributions enabled the technical assistance and cooperation activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out technical assistance activities, in particular in developing countries;

(*d*) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission, in the

[2] *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

[3] United Nations publication, Sales No. E.77.V.6.

light of the relevance and importance of the work and programmes of the Commission for promotion of the rule of law at the national and international levels and for the implementation of the United Nations development agenda, including the achievement of the Millennium Development Goals;

6. *Takes note with regret* that, since the thirty-sixth session of the Commission, no contributions have been made to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General,[4] stresses the need for contributions to the trust fund in order to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in the field of international trade law in those countries to facilitate the development of international trade and the promotion of foreign investment, and reiterates its appeal to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund;

7. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-second session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

8. *Welcomes* the decision by the Commission to hold a comprehensive review of its working methods, in particular in the light of the recent increase in membership of the Commission and the number of topics being dealt with by the Commission, which should ensure the high quality of the work of the Commission and international acceptability of its instruments, and in this regard recalls its previous resolutions related to this matter;[5]

9. *Recalls* its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector,[6] and its resolutions in which it encouraged the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global Compact Office;[7]

10. *Reiterates its request* to the Secretary-General, in conformity with the General Assembly resolutions on documentation-related matters,[8] which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

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[4] Resolution 48/32, para. 5.

[5] See in particular resolutions 36/32, 37/106, 38/134, 39/82, 40/71, 41/77, 42/152, 43/166 and 57/20.

[6] Resolutions 55/215, 56/76, 58/129 and 60/215.

[7] Resolutions 59/39, 60/20 and 61/32.

[8] Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

11. *Requests* the Secretary-General to continue providing summary records of the meetings of the Commission relating to the formulation of normative texts;

12. *Recalls* its resolution approving the establishment of the *Yearbook of the United Nations Commission on International Trade Law*, with the aim of making the work of the Commission more widely known and readily available,[9] expresses its concern regarding the timeliness of the publication of the *Yearbook*, and requests the Secretary-General to explore options to facilitate the timely publication of the *Yearbook*;

13. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

14. *Welcomes* the preparation of digests of case law relating to the texts of the Commission, such as a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods[10] and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law,[11] with the aim of assisting in the dissemination of information on those texts and promoting their use, enactment and uniform interpretation;

15. *Notes with satisfaction* that the Congress "Modern Law for Global Commerce", held in Vienna from 9 to 12 July 2007 in the context of the Commission's fortieth session, reviewed the results of the past work of the Commission as well as related work of other organizations active in the field of international trade law, assessed current work programmes and considered topics and areas for future work, and, acknowledging the importance of the results of the Congress for the coordination and promotion of activities aimed at the modernization and harmonization of international trade law, requests the Secretary-General to ensure the publication of the proceedings of the Congress to the extent permitted by available resources;

16. *Recalls* its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment,[12] commends the restructured website of the Commission in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website in accordance with the applicable guidelines.

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[9] Resolution 2502 (XXIV), para. 7.

[10] United Nations, *Treaty Series*, vol. 1489, No. 25567.

[11] *Official Records of the General Assembly, Fortieth Session, Supplement No. 17* (A/40/17), annex I.

[12] Resolutions 52/214, sect. C, para. 3; 55/222, sect. III, para. 12; 56/64 B, sect. X; 57/130 B, sect. X; 58/101 B, sect. V, paras. 61–76; 59/126 B, sect. V, paras. 76–95; 60/109 B, sect. IV, paras. 66–80; and 61/121 B, sect. IV, paras. 65–77.

Draft resolution II
Fiftieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958

The General Assembly,

Recalling the adoption of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards[1] on 10 June 1958 by the United Nations Conference on International Commercial Arbitration (New York, 20 May to 10 June 1958),[2]

Noting that one hundred and forty-two States have become parties to the Convention, making it one of the most successful treaties in the area of commercial law,

Recognizing the value of arbitration as a method of settling disputes in international commercial relations, contributing to harmonious commercial relations, stimulating international trade and development and promoting the rule of law at the international and national levels,

Convinced that the Convention, by establishing a fundamental legal framework for the use of arbitration and its effectiveness, has strengthened respect for binding commitments, inspired confidence in the rule of law and ensured fair treatment in the resolution of disputes arising over contractual rights and obligations,

Noting that the Convention has served as a model for subsequent multilateral and bilateral treaties and other international legislative texts on arbitration,

Taking note with appreciation of the work of the United Nations Commission on International Trade Law relating to the promotion of the Convention and its uniform interpretation and effective implementation,

Emphasizing the necessity for further national efforts and enhanced international cooperation to achieve universal adherence to the Convention and its uniform interpretation and effective implementation, with a view to fully realizing the objectives of the Convention,

Expressing its hope that States that are not yet parties to the Convention will soon become parties thereto, which would ensure that the legal certainty afforded by the Convention is universally enjoyed, decreasing the level of risk and transactional costs associated with doing business and thus promoting international trade,

1. *Welcomes* the initiatives being undertaken by various organs and agencies within and outside the United Nations system to organize conferences and other similar events to celebrate the fiftieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards[1] and to provide a forum for an exchange of views on experiences worldwide with the implementation of the Convention;

2. *Encourages* the use of these events for the promotion of wider adherence to the Convention and greater understanding of its provisions and their uniform interpretation and effective implementation;

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[1] United Nations, *Treaty Series*, vol. 330, No. 4739.

[2] E/CONF.26/8/Rev.1.

3. *Invites* all States that have not yet done so to consider becoming parties to the Convention;

4. *Requests* the Secretary-General to increase efforts to promote wider adherence to the Convention and its uniform interpretation and effective implementation.

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General Assembly

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Sixty-second session
Agenda item 82

Report of the International Law Commission on the work of its fifty-ninth session

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

I. Introduction

1. The item entitled "Report of the International Law Commission on the work of its fifty-ninth session" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/34 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 18th to 26th and 28th meetings, from 29 to 31 October and on 1, 2, 5, 6 and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.18-26 and 28).

4. For its consideration of the item, the Committee had before it the report of the International Law Commission on the work of its fifty-ninth session.[1]

5. The Chairman of the International Law Commission at its fifty-ninth session introduced the report of the Commission: chapters I to III, VI to VIII and X at the 18th meeting, on 29 October, and chapters IV, V and IX at the 22nd meeting, on 1 November (see A/C.6/62/SR.18 and 22).

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 10* (A/62/10).

07-54588 (E) 281107

II. Consideration of draft resolution A/C.6/62/L.18

6. At the 28th meeting, on 19 November, the representative of Morocco, on behalf of the Bureau, introduced a draft resolution entitled "Report of the International Law Commission on the work of its fifty-ninth session" (A/C.6/62/L.18).

7. At the same meeting the Committee adopted draft resolution A/C.6/62/L.18 without a vote (see para. 8).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission on the work of its fifty-ninth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-ninth session,[1]

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Acknowledging the importance of facilitating the timely publication of the Yearbook of the International Law Commission and eliminating the backlog,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

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[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 10* (A/62/10).

[2] Resolution 2625 (XXV), annex.

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the General Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its fifty-ninth session,[1] and recommends that the Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the General Assembly;

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its fifty-ninth session;

3. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report,[3] regarding:

(a) Reservations to treaties;

(b) Shared natural resources;

(c) Expulsion of aliens;

(d) Responsibility of international organizations;

(e) The obligation to extradite or prosecute (aut dedere aut judicare);

4. *Invites* Governments, within the context of paragraph 3 above, to provide information to the International Law Commission regarding practice with regard to the topics "Expulsion of aliens" and "The obligation to extradite or prosecute (aut dedere aut judicare)";

5. *Reiterates its invitation* to Governments, within the context of chapter III of the 2005 report of the International Law Commission, to provide information to the Commission regarding State practice, in particular more contemporary practice on the topic "Effects of armed conflicts on treaties";[4]

6. *Draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by 1 January 2008 on the draft articles and commentaries on the law of transboundary aquifers adopted on first reading by the Commission at its fifty-eighth session;[5]

7. *Takes note* of the decision of the International Law Commission to include the topics "Protection of persons in the event of disasters" and "Immunity of State officials from foreign criminal jurisdiction" in its programme of work;[6]

8. *Invites* the International Law Commission to continue taking measures to enhance its efficiency and productivity and to consider making proposals to that end;

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[3] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 10* (A/62/10), paras. 23-32.

[4] Ibid., *Sixtieth Session, Supplement No. 10* (A/60/10), para. 25.

[5] Ibid., *Sixty-first Session, Supplement No. 10* (A/61/10), paras. 75 and 76.

[6] Ibid., *Sixty-second Session, Supplement No. 10* (A/62/10), paras. 375 and 376.

9. *Encourages* the International Law Commission to continue taking cost-saving measures at its future sessions without prejudice to the efficiency of its work;

10. *Takes note* of paragraph 399 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 5 May to 6 June and from 7 July to 8 August 2008;

11. *Welcomes* the enhanced dialogue between the International Law Commission and the Sixth Committee at the sixty-second session of the General Assembly, stresses the desirability of further enhancing the dialogue between the two bodies, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the sixty-third session of the Assembly;

12. *Encourages* delegations, during the debate on the report of the International Law Commission, to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

13. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

14. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

15. *Takes note* of paragraphs 400 to 405 of the report of the International Law Commission with regard to cooperation with other bodies, and encourages the Commission to continue the implementation of article 16, paragraph (e), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

16. *Notes* that the International Law Commission, in accordance with article 25, paragraph 1, of its statute, held a meeting during its fifty-ninth session with United Nations and other experts in the field of human rights, including representatives from human rights treaty bodies, and exchanged views on issues relating to reservations to human rights treaties;

17. *Also notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

18. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission;

19. *Approves* the conclusions reached by the International Law Commission in paragraphs 387 to 395 of its report;

20. *Also approves* the conclusions reached by the International Law Commission in paragraphs 382 and 383 of its report, and reaffirms its previous decisions concerning the documentation and summary records of the Commission;[7]

21. *Takes note* of paragraph 385 of the report of the International Law Commission and, without prejudice to the importance of ensuring necessary allocations in the regular budget, requests the Secretary-General to establish a trust fund to accept voluntary contributions so as to address the backlog relating to the Yearbook of the International Law Commission;

22. *Also takes note* of the Guidelines on the publication of documents of the International Law Commission, as endorsed by the Commission in paragraph 381 of its report;

23. *Further takes note* of paragraphs 396 and 397 of the report of the International Law Commission and encourages legal advisers to participate in the commemorative meeting envisaged for the sixtieth anniversary to be held in Geneva on 19 and 20 May 2008, and invites Member States, in association with existing regional organizations, professional associations, academic institutions and members of the Commission, to convene national or regional meetings, which would be dedicated to the work of the Commission;

24. *Notes with appreciation* the expansion of the website of the International Law Commission[8] to include all its documentation, and welcomes the continuous efforts of the Codification Division to maintain and improve the website;

25. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

26. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;

27. *Also requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the sixty-second session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

28. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to

[7] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

[8] www.un.org/law/ilc.

the Commission and the draft articles adopted on either first or second reading by the Commission;

29. *Recommends* that the debate on the report of the International Law Commission at the sixty-third session of the General Assembly commence on 27 October 2008.

United Nations A/62/451

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Agenda item 83

Diplomatic protection

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

I. Introduction

1. The item entitled "Diplomatic protection" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/35 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 10th, 27th and 28th meetings, on 19 October and 12 and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.10, 27 and 28).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General containing the comments and observations received from Governments[1] on the recommendation of the International Law Commission to elaborate a convention on the basis of the draft articles on diplomatic protection adopted by the Commission at its fifty-eighth session, in 2006.[2]

[1] A/62/118 and Add.1.

[2] *Official Records of the General Assembly, Sixty-first Session, Supplement No.* (A/61/10), para 46.

07-54594 (E) 291107

II. Consideration of draft resolution A/C.6/62/L.13

5. At the 27th meeting, on 12 November, the representative of South Africa, on behalf of the Bureau, introduced a draft resolution entitled "Diplomatic protection" (A/C.6/62/L.13).

6. At its 28th meeting, on 19 November, the Committee adopted draft resolution A/C.6/62/L.13 without a vote (see para. 7).

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Diplomatic protection

The General Assembly,

Having considered chapter IV of the report of the International Law Commission on the work of its fifty-eighth session,[1] which contains the draft articles on diplomatic protection,[2]

Noting that the Commission decided to recommend to the General Assembly the elaboration of a convention on the basis of the draft articles on diplomatic protection,[3]

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of diplomatic protection is of major importance in the relations of States,

Taking into account the comments and observations of Governments[4] and the discussion held in the Sixth Committee at the sixty-second session of the General Assembly on diplomatic protection,

1. *Welcomes* the conclusion of the work of the International Law Commission on diplomatic protection and its adoption of the draft articles and commentary on the topic;[5]

2. *Expresses its appreciation* to the Commission for its continuing contribution to the codification and progressive development of international law;

3. *Commends* the articles on diplomatic protection presented by the Commission, the text of which is annexed to the present resolution, to the attention of Governments, and invites them to submit in writing to the Secretary-General any further comments concerning the recommendation by the Commission to elaborate a convention on the basis of the articles;[3]

4. *Decides* to include in the provisional agenda of its sixty-fifth session an item entitled "Diplomatic protection" and to further examine, within the framework of a working group of the Sixth Committee, in light of the written comments of Governments, as well as views expressed in the debates held at the sixty-second session of the General Assembly, the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the above-mentioned articles.

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[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10).

[2] Ibid., para. 49.

[3] Ibid., para. 46.

[4] A/62/118 and Add.1.

[5] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10), paras. 43 and 44.

Annex
Diplomatic protection

Part one
General provisions

Article 1
Definition and scope

For the purposes of the present draft articles, diplomatic protection consists of the invocation by a State, through diplomatic action or other means of peaceful settlement, of the responsibility of another State for an injury caused by an internationally wrongful act of that State to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility.

Article 2
Right to exercise diplomatic protection

A State has the right to exercise diplomatic protection in accordance with the present draft articles.

Part two
Nationality

Chapter I
General principles

Article 3
Protection by the State of nationality

1. The State entitled to exercise diplomatic protection is the State of nationality.

2. Notwithstanding paragraph 1, diplomatic protection may be exercised by a State in respect of a person that is not its national in accordance with draft article 8.

Chapter II
Natural persons

Article 4
State of nationality of a natural person

For the purposes of the diplomatic protection of a natural person, a State of nationality means a State whose nationality that person has acquired, in accordance with the law of that State, by birth, descent, naturalization, succession of States or in any other manner, not inconsistent with international law.

Article 5
Continuous nationality of a natural person

1. A State is entitled to exercise diplomatic protection in respect of a person who was a national of that State continuously from the date of injury to the date of the official presentation of the claim. Continuity is presumed if that nationality existed at both these dates.

2. Notwithstanding paragraph 1, a State may exercise diplomatic protection in respect of a person who is its national at the date of the official presentation of the claim but was not a national at the date of injury, provided that the person had the nationality of a predecessor State or lost his or her previous nationality and acquired, for a reason unrelated to the bringing of the claim, the nationality of the former State in a manner not inconsistent with international law.

3. Diplomatic protection shall not be exercised by the present State of nationality in respect of a person against a former State of nationality of that person for an injury caused when that person was a national of the former State of nationality and not of the present State of nationality.

4. A State is no longer entitled to exercise diplomatic protection in respect of a person who acquires the nationality of the State against which the claim is brought after the date of the official presentation of the claim.

Article 6
Multiple nationality and claim against a third State

1. Any State of which a dual or multiple national is a national may exercise diplomatic protection in respect of that national against a State of which that person is not a national.

2. Two or more States of nationality may jointly exercise diplomatic protection in respect of a dual or multiple national.

Article 7
Multiple nationality and claim against a State of nationality

A State of nationality may not exercise diplomatic protection in respect of a person against a State of which that person is also a national unless the nationality of the former State is predominant, both at the date of injury and at the date of the official presentation of the claim.

Article 8
Stateless persons and refugees

1. A State may exercise diplomatic protection in respect of a stateless person who, at the date of injury and at the date of the official presentation of the claim, is lawfully and habitually resident in that State.

2. A State may exercise diplomatic protection in respect of a person who is recognized as a refugee by that State, in accordance with internationally accepted standards, when that person, at the date of injury and at the date of the official presentation of the claim, is lawfully and habitually resident in that State.

3. Paragraph 2 does not apply in respect of an injury caused by an internationally wrongful act of the State of nationality of the refugee.

Chapter III
Legal persons

Article 9
State of nationality of a corporation

For the purposes of the diplomatic protection of a corporation, the State of nationality means the State under whose law the corporation was incorporated. However, when the corporation is controlled by nationals of another State or States and has no substantial business activities in the State of incorporation, and the seat of management and the financial control of the corporation are both located in another State, that State shall be regarded as the State of nationality.

Article 10
Continuous nationality of a corporation

1. A State is entitled to exercise diplomatic protection in respect of a corporation that was a national of that State, or its predecessor State, continuously from the date of injury to the date of the official presentation of the claim. Continuity is presumed if that nationality existed at both these dates.

2. A State is no longer entitled to exercise diplomatic protection in respect of a corporation that acquires the nationality of the State against which the claim is brought after the presentation of the claim.

3. Notwithstanding paragraph 1, a State continues to be entitled to exercise diplomatic protection in respect of a corporation which was its national at the date of injury and which, as the result of the injury, has ceased to exist according to the law of the State of incorporation.

Article 11
Protection of shareholders

A State of nationality of shareholders in a corporation shall not be entitled to exercise diplomatic protection in respect of such shareholders in the case of an injury to the corporation unless:

(*a*) The corporation has ceased to exist according to the law of the State of incorporation for a reason unrelated to the injury; or

(*b*) The corporation had, at the date of injury, the nationality of the State alleged to be responsible for causing the injury, and incorporation in that State was required by it as a precondition for doing business there.

Article 12
Direct injury to shareholders

To the extent that an internationally wrongful act of a State causes direct injury to the rights of shareholders as such, as distinct from those of the corporation itself, the State of nationality of any such shareholders is entitled to exercise diplomatic protection in respect of its nationals.

Article 13
Other legal persons

The principles contained in this chapter shall be applicable, as appropriate, to the diplomatic protection of legal persons other than corporations.

Part three
Local remedies

Article 14
Exhaustion of local remedies

1. A State may not present an international claim in respect of an injury to a national or other person referred to in draft article 8 before the injured person has, subject to draft article 15, exhausted all local remedies.

2. "Local remedies" means legal remedies which are open to an injured person before the judicial or administrative courts or bodies, whether ordinary or special, of the State alleged to be responsible for causing the injury.

3. Local remedies shall be exhausted where an international claim, or request for a declaratory judgement related to the claim, is brought preponderantly on the basis of an injury to a national or other person referred to in draft article 8.

Article 15
Exceptions to the local remedies rule

Local remedies do not need to be exhausted where:

(*a*) There are no reasonably available local remedies to provide effective redress, or the local remedies provide no reasonable possibility of such redress;

(*b*) There is undue delay in the remedial process which is attributable to the State alleged to be responsible;

(*c*) There was no relevant connection between the injured person and the State alleged to be responsible at the date of injury;

(*d*) The injured person is manifestly precluded from pursuing local remedies; or

(*e*) The State alleged to be responsible has waived the requirement that local remedies be exhausted.

Part four
Miscellaneous provisions

Article 16
Actions or procedures other than diplomatic protection

The rights of States, natural persons, legal persons or other entities to resort under international law to actions or procedures other than diplomatic protection to secure redress for injury suffered as a result of an internationally wrongful act, are not affected by the present draft articles.

Article 17
Special rules of international law

The present draft articles do not apply to the extent that they are inconsistent with special rules of international law, such as treaty provisions for the protection of investments.

Article 18
Protection of ships' crews

The right of the State of nationality of the members of the crew of a ship to exercise diplomatic protection is not affected by the right of the State of nationality of a ship to seek redress on behalf of such crew members, irrespective of their nationality, when they have been injured in connection with an injury to the vessel resulting from an internationally wrongful act.

Article 19
Recommended practice

A State entitled to exercise diplomatic protection according to the present draft articles, should:

(*a*) Give due consideration to the possibility of exercising diplomatic protection, especially when a significant injury has occurred;

(*b*) Take into account, wherever feasible, the views of injured persons with regard to resort to diplomatic protection and the reparation to be sought; and

(*c*) Transfer to the injured person any compensation obtained for the injury from the responsible State subject to any reasonable deductions.

United Nations A/62/452

General Assembly

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Sixty-second session
Agenda item 84

Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

Report of the Sixth Committee

Rapporteur: Mr. Adam Mulawarman **Tugio** (Indonesia)

I. Introduction

1. The item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/36 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 12th and 28th meetings, on 23 October and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.12 and 28).

4. For its consideration of the item, the Committee had before it the reports of the International Law Commission on the work of its fifty-third[1] and fifty-eighth[2] sessions.

[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10* and corrigendum (A/56/10 and Corr.1).

[2] Ibid., *Sixty-first Session, Supplement No. 10* (A/61/10).

07-54600 (E) 031207

II. Consideration of draft resolution A/C.6/62/L.19

5. At the 28th meeting, on 19 November, the representative of New Zealand, on behalf of the Bureau, introduced a draft resolution entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm" (A/C.6/62/L.19).

6. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.19 without a vote (see para. 7).

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

The General Assembly,

Recalling that the International Law Commission at its fifty-third session[1] completed the draft articles on prevention of transboundary harm from hazardous activities and recommended to the General Assembly the elaboration of a convention on the basis of the draft articles,

Recalling also its resolution 56/82 of 12 December 2001,

Noting that the Commission at its fifty-eighth session completed the draft principles on allocation of loss in the case of transboundary harm arising out of hazardous activities and recommended to the General Assembly that it endorse the draft principles by a resolution and urge States to take national and international action to implement them,[2]

Recalling its resolution 61/36 of 4 December 2006, the annex to which contains the text of the principles on allocation of loss in the case of transboundary harm arising out of hazardous activities,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the questions of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm are of major importance in the relations of States,

Taking into account the views and comments expressed in the Sixth Committee at the sixty-second session of the General Assembly on the prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm,

1. *Welcomes* the conclusion of the work of the International Law Commission on prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm and its adoption of the respective draft articles and draft principles and commentaries on the subjects;

2. *Expresses its appreciation* to the Commission for its continuing contribution to the codification and progressive development of international law;

3. *Commends* the articles on prevention of transboundary harm from hazardous activities, presented by the Commission, the text of which is annexed to

[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10* and corrigendum (A/56/10 and Corr.1), paras. 91, 94 and 97.

[2] Ibid., *Sixty-first Session, Supplement No. 10* (A/61/10), para. 63.

the present resolution, to the attention of Governments, without prejudice to any future action, as recommended by the Commission regarding the articles;

4. *Commends once again* the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, presented by the Commission, the text of which was annexed to General Assembly resolution 61/36, to the attention of Governments, without prejudice to any future action, as recommended by the Commission regarding the principles;

5. *Invites* Governments to submit comments on any future action, in particular on the form of the respective articles and principles, bearing in mind the recommendations made by the Commission in that regard, including in relation to the elaboration of a convention on the basis of the draft articles, as well as on any practice in relation to the application of the articles and principles;

6. *Decides* to include in the provisional agenda of its sixty-fifth session the item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm".

Annex

Prevention of transboundary harm from hazardous activities

The States Parties,

Having in mind Article 13, paragraph 1 (a) of the Charter of the United Nations, which provides that the General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification,

Bearing in mind the principle of permanent sovereignty of States over the natural resources within their territory or otherwise under their jurisdiction or control,

Bearing in mind also that the freedom of States to carry on or permit activities in their territory or otherwise under their jurisdiction or control is not unlimited,

Recalling the Rio Declaration on Environment and Development of 13 June 1992,

Recognizing the importance of promoting international cooperation,

Have agreed as follows:

Article 1

Scope

The present articles apply to activities not prohibited by international law which involve a risk of causing significant transboundary harm through their physical consequences.

Article 2
Use of terms

For the purposes of the present articles:

(a) "Risk of causing significant transboundary harm" includes risks taking the form of a high probability of causing significant transboundary harm and a low probability of causing disastrous transboundary harm;

(b) "Harm" means harm caused to persons, property or the environment;

(c) "Transboundary harm" means harm caused in the territory of or in other places under the jurisdiction or control of a State other than the State of origin, whether or not the States concerned share a common border;

(d) "State of origin" means the State in the territory or otherwise under the jurisdiction or control of which the activities referred to in article 1 are planned or are carried out;

(e) "State likely to be affected" means the State or States in the territory of which there is the risk of significant transboundary harm or which have jurisdiction or control over any other place where there is such a risk;

(f) "States concerned" means the State of origin and the State likely to be affected.

Article 3
Prevention

The State of origin shall take all appropriate measures to prevent significant transboundary harm or at any event to minimize the risk thereof.

Article 4
Cooperation

States concerned shall cooperate in good faith and, as necessary, seek the assistance of one or more competent international organizations in preventing significant transboundary harm or at any event in minimizing the risk thereof.

Article 5
Implementation

States concerned shall take the necessary legislative, administrative or other action including the establishment of suitable monitoring mechanisms to implement the provisions of the present articles.

Article 6
Authorization

1. The State of origin shall require its prior authorization for:

(a) Any activity within the scope of the present articles carried out in its territory or otherwise under its jurisdiction or control;

(b) Any major change in an activity referred to in subparagraph (a);

(c) Any plan to change an activity which may transform it into one falling within the scope of the present articles.

2. The requirement of authorization established by a State shall be made applicable in respect of all pre-existing activities within the scope of the present articles. Authorizations already issued by the State for pre-existing activities shall be reviewed in order to comply with the present articles.

3. In case of a failure to conform to the terms of the authorization, the State of origin shall take such actions as appropriate, including where necessary terminating the authorization.

Article 7
Assessment of risk

Any decision in respect of the authorization of an activity within the scope of the present articles shall, in particular, be based on an assessment of the possible transboundary harm caused by that activity, including any environmental impact assessment.

Article 8
Notification and information

1. If the assessment referred to in article 7 indicates a risk of causing significant transboundary harm, the State of origin shall provide the State likely to be affected with timely notification of the risk and the assessment and shall transmit to it the available technical and all other relevant information on which the assessment is based.

2. The State of origin shall not take any decision on authorization of the activity pending the receipt, within a period not exceeding six months, of the response from the State likely to be affected.

Article 9
Consultations on preventive measures

1. The States concerned shall enter into consultations, at the request of any of them, with a view to achieving acceptable solutions regarding measures to be adopted in order to prevent significant transboundary harm or at any event to minimize the risk thereof. The States concerned shall agree, at the commencement of such consultations, on a reasonable time frame for the consultations.

2. The States concerned shall seek solutions based on an equitable balance of interests in the light of article 10.

3. If the consultations referred to in paragraph 1 fail to produce an agreed solution, the State of origin shall nevertheless take into account the interests of the State likely to be affected in case it decides to authorize the activity to be pursued, without prejudice to the rights of any State likely to be affected.

Article 10
Factors involved in an equitable balance of interests

In order to achieve an equitable balance of interests as referred to in paragraph 2 of article 9, the States concerned shall take into account all relevant factors and circumstances, including:

(a) The degree of risk of significant transboundary harm and of the availability of means of preventing such harm, or minimizing the risk thereof or repairing the harm;

(b) The importance of the activity, taking into account its overall advantages of a social, economic and technical character for the State of origin in relation to the potential harm for the State likely to be affected;

(c) The risk of significant harm to the environment and the availability of means of preventing such harm, or minimizing the risk thereof or restoring the environment;

(d) The degree to which the State of origin and, as appropriate, the State likely to be affected are prepared to contribute to the costs of prevention;

(e) The economic viability of the activity in relation to the costs of prevention and to the possibility of carrying out the activity elsewhere or by other means or replacing it with an alternative activity;

(f) The standards of prevention which the State likely to be affected applies to the same or comparable activities and the standards applied in comparable regional or international practice.

Article 11
Procedures in the absence of notification

1. If a State has reasonable grounds to believe that an activity planned or carried out in the State of origin may involve a risk of causing significant transboundary harm to it, it may request the State of origin to apply the provision of article 8. The request shall be accompanied by a documented explanation setting forth its grounds.

2. In the event that the State of origin nevertheless finds that it is not under an obligation to provide a notification under article 8, it shall so inform the requesting State within a reasonable time, providing a documented explanation setting forth the reasons for such finding. If this finding does not satisfy that State, at its request, the two States shall promptly enter into consultations in the manner indicated in article 9.

3. During the course of the consultations, the State of origin shall, if so requested by the other State, arrange to introduce appropriate and feasible measures to minimize the risk and, where appropriate, to suspend the activity in question for a reasonable period.

Article 12
Exchange of information

While the activity is being carried out, the States concerned shall exchange in a timely manner all available information concerning that activity relevant to preventing significant transboundary harm or at any event minimizing the risk

thereof. Such an exchange of information shall continue until such time as the States concerned consider it appropriate even after the activity is terminated.

Article 13
Information to the public

States concerned shall, by such means as are appropriate, provide the public likely to be affected by an activity within the scope of the present articles with relevant information relating to that activity, the risk involved and the harm which might result and ascertain their views.

Article 14
National security and industrial secrets

Data and information vital to the national security of the State of origin or to the protection of industrial secrets or concerning intellectual property may be withheld, but the State of origin shall cooperate in good faith with the State likely to be affected in providing as much information as possible under the circumstances.

Article 15
Non-discrimination

Unless the States concerned have agreed otherwise for the protection of the interests of persons, natural or juridical, who may be or are exposed to the risk of significant transboundary harm as a result of an activity within the scope of the present articles, a State shall not discriminate on the basis of nationality or residence or place where the injury might occur, in granting to such persons, in accordance with its legal system, access to judicial or other procedures to seek protection or other appropriate redress.

Article 16
Emergency preparedness

The State of origin shall develop contingency plans for responding to emergencies, in cooperation, where appropriate, with the State likely to be affected and competent international organizations.

Article 17
Notification of an emergency

The State of origin shall, without delay and by the most expeditious means, at its disposal, notify the State likely to be affected of an emergency concerning an activity within the scope of the present articles and provide it with all relevant and available information.

Article 18
Relationship to other rules of international law

The present articles are without prejudice to any obligation incurred by States under relevant treaties or rules of customary international law.

Article 19
Settlement of disputes

1. Any dispute concerning the interpretation or application of the present articles shall be settled expeditiously through peaceful means of settlement chosen by mutual agreement of the parties to the dispute, including negotiations, mediation, conciliation, arbitration or judicial settlement.

2. Failing an agreement on the means for the peaceful settlement of the dispute within a period of six months, the parties to the dispute shall, at the request of any of them, have recourse to the establishment of an impartial fact-finding commission.

3. The Fact-finding Commission shall be composed of one member nominated by each party to the dispute and in addition a member not having the nationality of any of the parties to the dispute chosen by the nominated members who shall serve as Chairperson.

4. If more than one State is involved on one side of the dispute and those States do not agree on a common member of the Commission and each of them nominates a member, the other party to the dispute has the right to nominate an equal number of members of the Commission.

5. If the members nominated by the parties to the dispute are unable to agree on a Chairperson within three months of the request for the establishment of the Commission, any party to the dispute may request the Secretary-General of the United Nations to appoint the Chairperson who shall not have the nationality of any of the parties to the dispute. If one of the parties to the dispute fails to nominate a member within three months of the initial request pursuant to paragraph 2, any other party to the dispute may request the Secretary-General of the United Nations to appoint a person who shall not have the nationality of any of the parties to the dispute. The person so appointed shall constitute a single-member Commission.

6. The Commission shall adopt its report by a majority vote, unless it is a single-member Commission, and shall submit that report to the parties to the dispute setting forth its findings and recommendations, which the parties to the dispute shall consider in good faith.

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Sixty-second session
Agenda item 85

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Report of the Sixth Committee

Rapporteur: Mr. Adam Mulawarman **Tugio** (Indonesia)

I. Introduction

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/38 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 8th, 9th, 27th and 28th meetings, on 16 and 17 October and 12 and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.8, 9, 27 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[1]

(b) Report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/62/124 and Corr.1);

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 33* (A/62/33).

07-54606 (E) 291107

(c) Report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/62/206 and Corr.1);

(d) Working paper submitted by the Russian Federation entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" (A/C.6/62/L.6).

5. At the 8th meeting, on 16 October, the Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization introduced the report of the Special Committee (see A/C.6/62/SR.8).

II. Consideration of draft resolution A/C.6/62/L.11

6. At the 27th meeting, on 12 November, the representative of Egypt, on behalf of the Bureau, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/62/L.11).

7. At the 28th meeting, on 19 November, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

8. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.11 without a vote (see para. 9).

III. Recommendation of the Sixth Committee

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,[1]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Mindful of the adoption of the revised working papers on the working methods of the Special Committee,[2]

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[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 47* (A/61/47).

[2] Ibid., *Supplement No. 33* (A/61/33), para. 72.

Taking note of the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*,[3]

Taking note also of paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,[4]

Mindful of the decision of the Special Committee, in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that might be taken at the High-level Plenary Meeting of the sixtieth session of the General Assembly in September 2005 that concerned the Charter and any amendments thereto,[5]

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002, 58/80 of 9 December 2003 and 59/45 of 2 December 2004,

Recalling also its resolution 61/38 of 4 December 2006,

Having considered the report of the Special Committee on the work of its session held in 2007,[6]

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[6]

2. *Decides* that the Special Committee shall hold its next session from 27 February to 5 March and on 7 March 2008;

3. *Requests* the Special Committee, at its session in 2008, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations, and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2008;

(b) To continue its consideration of the working document submitted by the Russian Federation, entitled "Basic conditions and standard criteria for introduction and implementation of sanctions", on a priority basis;

(c) To continue to consider, on a priority basis and in an appropriate substantive manner and framework, the question of the implementation of the

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[3] A/62/124 and Corr.1.

[4] See resolution 60/1.

[5] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 33* (A/60/33), para. 77.

[6] Ibid., *Sixty-second Session, Supplement No. 33* (A/62/33).

provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter based on all of the related reports of the Secretary-General[7] and the proposals submitted on the question;

(d) To keep on its agenda the question of the peaceful settlement of disputes between States;

(e) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the High-level Plenary Meeting of the sixtieth session of the Assembly in September 2005 that concern the Charter and any amendments thereto;

(f) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency with a view to identifying widely acceptable measures for future implementation;

4. *Invites* the Special Committee at its session in 2008 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

5. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

6. *Requests* the Special Committee to submit a report on its work to the General Assembly at its sixty-third session;

7. *Recognizes* the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, takes note, consistent with Article 96 of the Charter, of the Court's advisory jurisdiction that may be requested by the General Assembly, the Security Council or other authorized organs of the United Nations and the specialized agencies, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;

8. *Commends* the Secretary-General for the progress made in the preparation of studies of the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

9. *Notes with appreciation* the contributions made by Member States to the trust fund for the updating of the *Repertoire*, as well as the trust fund for the elimination of the backlog in the *Repertory*;

10. *Reiterates its call* for voluntary contributions to the trust fund for the updating of the *Repertoire*, as well as the trust fund for the elimination of the backlog in the *Repertory*, and the sponsoring, on a voluntary basis, and with no cost

[7] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346, A/59/334, A/60/320, A/61/304 and A/62/206 and Corr.1.

to the United Nations, of associate experts to assist in the updating of the two publications;

11. *Calls upon* the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions;

12. *Reiterates* the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire* and, in particular, with regard to the *Repertoire*, calls upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report of 18 September 1952;[8]

13. *Requests* the Secretary-General to submit a report on both the *Repertory* and the *Repertoire* to the General Assembly at its sixty-third session;

14. *Also requests* the Secretary-General to brief the Special Committee at its next session on the information referred to in paragraph 13 of his report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions,[9] on modalities, technical procedures and guidelines on coordination of technical assistance available to third States affected by the implementation of sanctions, as well as a possible methodology for assessing the adverse consequences actually incurred by third States, in the report mentioned in paragraph 15 below;

15. *Further requests* the Secretary-General to submit a report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions to the General Assembly at its sixty-third session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization";

16. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

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[8] A/2170.

[9] A/62/206 and Corr.1.

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Sixty-second session
Agenda item 86

The rule of law at the national and international levels

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

I. Introduction

1. The item entitled "The rule of law at the national and international levels" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/39 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 14th, 15th, 16th and 28th meetings, on 25 and 26 October and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.14-16 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the comments and information received from Governments on the rule of law at the national and international levels (A/62/121 and Add.1);

(b) Interim report of the Secretary-General on the rule of law at the national and international levels (A/62/261).

II. Consideration of draft resolution A/C.6/62/L.9

5. At the 28th meeting, on 19 November, the representative of Liechtenstein, on behalf of the Bureau, introduced and orally revised a draft resolution entitled "The rule of law at the national and international levels" (A/C.6/62/L.9).

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6. At the same meeting, the Committee adopted draft resolution A/C.6/62/L.9, as orally revised, without a vote (see para. 8).

7. After the adoption of the draft resolution, the representative of Germany made a statement in explanation of position (see A/C.6/62/SR.28).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The rule of law at the national and international levels

The General Assembly,

Recalling its resolution 61/39 of 4 December 2006,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming also that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming further the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,

Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered, in accordance with Chapter VI of the Charter, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and of its Member States,

Recalling paragraph 134 (e) of the 2005 World Summit Outcome,[1]

1. *Reiterates its request* to the Secretary-General to prepare an inventory of the current activities of the various organs, bodies, offices, departments, funds and programmes within the United Nations system devoted to the promotion of the rule of law at the national and international levels for submission at its sixty-third

[1] See resolution 60/1.

session, and welcomes the interim report thereon submitted to the General Assembly at the sixty-second session;[2]

2. *Also reiterates its request* to the Secretary-General to prepare and submit, after having sought the views of Member States, at its sixty-third session, a report identifying ways and means for strengthening and coordinating the activities listed in the inventory to be prepared pursuant to paragraph 1 above, with special regard to the effectiveness of assistance that may be requested by States in building capacity for the promotion of the rule of law at the national and international levels;

3. *Invites* the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law;

4. *Notes with appreciation* the report of the Secretary-General entitled "Uniting our strengths: enhancing United Nations support for the rule of law"[3] supports the Rule of Law Coordination and Resource Group, supported by the rule of law unit in the Executive Office of the Secretary-General, under the leadership of the Deputy Secretary-General, and requests the Secretary-General to provide details on the staffing and other requirements for the unit without delay to the General Assembly for its consideration during the sixty-second session in accordance with existing relevant procedures;

5. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "The rule of law at the national and international levels".

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[2] A/62/261.

[3] A/61/636-S/2006/980 and Corr.1.

United Nations A/62/455

General Assembly

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Sixty-second session
Agenda item 108

Measures to eliminate international terrorism

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

I. Introduction

1. The item entitled "Measures to eliminate international terrorism" was included in the provisional agenda of the sixty-second session of the General Assembly pursuant to Assembly resolution 61/40 of 4 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 3rd to 5th, 16th and 28th meetings, on 10, 11 and 26 October and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.3-5, 16 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996;[1]

(b) Report of the Secretary-General on measures to eliminate international terrorism (A/62/160);

(c) Letter dated 15 August 2007 from the representative of the Sudan to the Secretary-General (A/62/291);

(d) Letter dated 18 September 2007 from the representative of Mali to the Secretary-General (A/62/359-S/2007/569);

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 37* (A/62/37).

07-54618 (E) 301107

(e) Letter dated 20 September 2007 from the representative of Mali to the Secretary-General (A/62/366-S/2007/570);

(f) Note verbale dated 4 October 2007 from the Permanent Mission of Senegal to the United Nations addressed to the Secretary-General (A/62/479-S/2007/602);

(g) Letter dated 10 October 2007 from the representatives of El Salvador, Honduras and Nicaragua to the Secretary-General (A/62/486);

(h) Letter dated 17 October 2007 from the representative of Tajikistan to the Secretary-General, transmitting the Bishkek Declaration adopted on 16 August 2007 by the Council of Heads of State of the Shanghai Cooperation Organization (A/62/492-S/2007/616);

(i) Letter dated 18 October 2007 from the representative of Pakistan to the Secretary-General, transmitting the final communiqué of the annual coordination meeting of the Ministers for Foreign Affairs of the States members of the Organization of the Islamic Conference, held at United Nations Headquarters on 2 October 2007 (A/62/507-S/2007/636);

(j) Letter dated 31 October 2007 from the representative of the Islamic Republic of Iran to the Secretary-General (A/62/524-S/2007/650).

5. At its 1st meeting, on 8 October, the Sixth Committee established a Working Group to continue to carry out the mandate of the Ad Hoc Committee established by General Assembly resolution 51/210, as contained in resolution 61/40. At the same meeting, the Committee re-elected Rohan Perera (Sri Lanka) as Chairman of the Working Group. The Working Group held three meetings, on 11, 15 and 18 October.

6. At the 3rd meeting of the Sixth Committee, on 10 October, the Chairman of the Ad Hoc Committee established by General Assembly resolution 51/210 introduced the report of the Ad Hoc Committee; and at the 16th meeting, on 26 October, the Chairman of the Working Group presented an oral report on the work of the Working Group and on the results of the bilateral contacts with delegations which were held intersessionally and on 16 and 17 October (see A/C.6/62/SR.3 and 16).

II. Consideration of draft resolution A/C.6/62/L.14

7. At the 28th meeting, on 19 November, the representative of Canada, on behalf of the Bureau, introduced a draft resolution entitled "Measures to eliminate international terrorism" (A/C.6/62/L.14).

8. At the same meeting, the Secretary of the Committee made a statement regarding the financial implications of the draft resolution.

9. Also at the same meeting, the Committee adopted draft resolution A/C.6/62/L.14 without a vote (see para. 11).

10. Before the adoption of the draft resolution, the representatives of Egypt, Algeria, Iran (Islamic Republic of) and Uganda made statements in explanation of position; after the adoption of the draft resolution, the representatives of Venezuela (Bolivarian Republic of), Tunisia, the Sudan and Cuba made statements in explanation of position (see A/C.6/62/SR.28).

III. Recommendation of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the United Nations Global Counter-Terrorism Strategy in all its aspects adopted on 8 September 2006,[1] enhancing the overall framework for the efforts of the international community to effectively counter the scourge of terrorism in all its forms and manifestations,

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[2]

Recalling also the United Nations Millennium Declaration,[3]

Recalling further the 2005 World Summit Outcome,[4] and reaffirming in particular the section on terrorism,

Recalling the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to resolution 51/210 of 17 December 1996,

Recalling also all General Assembly resolutions on measures to eliminate international terrorism, and Security Council resolutions on threats to international peace and security caused by terrorist acts,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Reaffirming its strong condemnation of the heinous acts of terrorism that have caused enormous loss of human life, destruction and damage, including those which prompted the adoption of General Assembly resolution 56/1 of 12 September 2001, as well as Security Council resolutions 1368 (2001) of 12 September 2001, 1373 (2001) of 28 September 2001 and 1377 (2001) of 12 November 2001, and those that have occurred since the adoption of the latter resolution,

Recalling the strong condemnation of the atrocious and deliberate attack against the headquarters of the United Nations Assistance Mission for Iraq in

[1] Resolution 60/288.
[2] See resolution 50/6.
[3] See resolution 55/2.
[4] See resolution 60/1.

Baghdad on 19 August 2003 in General Assembly resolution 57/338 of 15 September 2003 and Security Council resolution 1502 (2003) of 26 August 2003,

Affirming that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism in monitoring the implementation of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism, and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Mindful also of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and suppress effectively international terrorism in all its forms and manifestations,

Reiterating its call upon States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Emphasizing that tolerance and dialogue among civilizations, and enhancing interfaith and intercultural understanding, are among the most important elements in promoting cooperation and success in combating terrorism, and welcoming the various initiatives to this end,

Reaffirming that no terrorist act can be justified in any circumstances,

Recalling Security Council resolution 1624 (2005) of 14 September 2005, and bearing in mind that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

Taking note of the recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, including those of, inter alia, the African Union, the ASEAN Regional Forum, the Asia-Pacific Economic Cooperation, the Association of Southeast Asian Nations, the Bali Counter-Terrorism Process, the Central American Integration System, the Collective Security Treaty Organization, the Common Market for Eastern and Southern Africa, the Cooperation Council for the Arab States of the Gulf, the Council of Europe, the Economic Community of West African States, the Euro-

Mediterranean Partnership, the European Free Trade Association, the European Union, the Group of Eight, the Intergovernmental Authority on Development, the International Maritime Organization, the International Civil Aviation Organization, the League of Arab States, the Movement of Non-Aligned Countries, the North Atlantic Treaty Organization, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of American States, the Organization of the Islamic Conference, the Pacific Islands Forum, the Shanghai Cooperation Organization, the Southern African Development Community and the World Customs Organization,

Noting regional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002, 58/81 of 9 December 2003, 59/46 of 2 December 2004, 60/43 of 8 December 2005 and 61/40 of 4 December 2006 that the Ad Hoc Committee established by General Assembly resolution 51/210 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Recalling also the Final Document of the Fourteenth Conference of Heads of State or Government of Non-Aligned Countries, adopted in Havana on 16 September 2006, which reiterated the collective position of the Movement of Non-Aligned Countries on terrorism and reaffirmed its previous initiative[5] calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, as well as other relevant initiatives,

Aware of its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005 and 61/171 of 19 December 2006,

Having examined the report of the Secretary-General,[6] the report of the Ad Hoc Committee established by resolution 51/210[7] and the oral report of the Chairperson on the work of the Working Group established by the Sixth Committee during the sixty-second session of the General Assembly,[8]

1. *Strongly condemns* all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed;

2. *Calls upon* all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy[1] in all its aspects at the international, regional, subregional and national levels without delay, including through mobilizing resources and expertise;

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[5] See A/53/667-S/1998/1071, annex I, paras. 149–162.

[6] A/62/160.

[7] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 37* (A/62/37).

[8] Ibid., *Sixty-Second Session, Sixth Committee*, 16th meeting (A/C.6/62/SR.16).

3. *Recalls* the pivotal role of the General Assembly in following up the implementation and updating of the Strategy, and in this regard also recalls its invitation to the Secretary-General to contribute to the future deliberations of the General Assembly, and requests the Secretary-General when doing so to provide information on relevant activities within the Secretariat to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

4. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

5. *Reiterates its call upon* all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider in particular the implementation of the measures set out in paragraphs 3 (*a*) to (*f*) of resolution 51/210;

6. *Also reiterates its call upon* all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

7. *Reiterates its call upon* States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

8. *Urges* States to ensure that their nationals or other persons and entities within their territory that wilfully provide or collect funds for the benefit of persons or entities who commit, or attempt to commit, facilitate or participate in the commission of terrorist acts are punished by penalties consistent with the grave nature of such acts;

9. *Reminds* States of their obligations under relevant international conventions and protocols and Security Council resolutions, including Security Council resolution 1373 (2001), to ensure that perpetrators of terrorist acts are brought to justice;

10. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

11. *Recalls* the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism,[9] the Amendment to the Convention on the Physical Protection of Nuclear Material,[10] the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation[11] and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the

[9] Resolution 59/290, annex.

[10] Adopted on 8 July 2005 by the Conference to Consider Proposed Amendments to the Convention on the Physical Protection of Nuclear Material.

[11] Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG/CONF.15/21).

Safety of Fixed Platforms Located on the Continental Shelf,[12] and urges all States to consider, as a matter of priority, becoming parties to these instruments;

12. *Urges* all States that have not yet done so to consider as a matter of priority, and in accordance with Security Council resolution 1373 (2001), and Council resolution 1566 (2004) of 8 October 2004, becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings,[13] the International Convention for the Suppression of the Financing of Terrorism,[14] the International Convention for the Suppression of Acts of Nuclear Terrorism, and the Amendment to the Convention on the Physical Protection of Nuclear Material, and calls upon all States to enact, as appropriate, the domestic legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts, and to cooperate with and provide support and assistance to other States and relevant international and regional organizations to that end;

13. *Urges* States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other expert advice is provided to those States requiring and requesting assistance in becoming parties to and implementing the conventions and protocols referred to in paragraph 12 above;

14. *Notes with appreciation and satisfaction* that, consistent with the call contained in paragraphs 11 and 12 of resolution 61/40, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions, and, in this regard, welcomes in particular the entry into force on 7 July 2007 of the International Convention for the Suppression of Acts of Nuclear Terrorism;

15. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, and calls upon all States to implement them;

16. *Calls upon* all States to cooperate to prevent and suppress terrorist acts;

17. *Urges* all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

18. *Requests* the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna to continue its efforts to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and recognizes, in the context of the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1373 (2001), its role in assisting States in becoming

[12] Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG/CONF.15/22).

[13] United Nations, *Treaty Series*, vol. 2149, No. 37517.

[14] Ibid., vol. 2178, No. 38349.

parties to and implementing the relevant international conventions and protocols relating to terrorism, including the most recent among them, and in strengthening international cooperation mechanisms in criminal matters related to terrorism, including through national capacity-building;

19. *Welcomes* the current efforts by the Secretariat to prepare the third edition of the publication *International Instruments related to the Prevention and Suppression of International Terrorism* in all official languages;

20. *Invites* regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism, as well as on intergovernmental meetings held by those organizations;

21. *Notes* the progress attained in the elaboration of the draft comprehensive convention on international terrorism during the meetings of the Ad Hoc Committee established by General Assembly resolution 51/210 and the Working Group established by the Sixth Committee during the sixty-second session of the General Assembly, and welcomes continuing efforts to that end;

22. *Decides* that the Ad Hoc Committee shall, on an expedited basis, continue to elaborate the draft comprehensive convention on international terrorism, and shall continue to discuss the item included in its agenda by General Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations;

23. *Also decides* that the Ad Hoc Committee shall meet on 25 and 26 February and 6 March 2008 in order to fulfil the mandate referred to in paragraph 22 above;

24. *Requests* the Secretary-General to continue to provide the Ad Hoc Committee with the necessary facilities for the performance of its work;

25. *Requests* the Ad Hoc Committee to report to the General Assembly at its sixty-second session in the event of the completion of the draft comprehensive convention on international terrorism;

26. *Also requests* the Ad Hoc Committee to report to the General Assembly at its sixty-third session on progress made in the implementation of its mandate;

27. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "Measures to eliminate international terrorism".

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Agenda item 121

Revitalization of the work of the General Assembly

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

I. Introduction

1. The item entitled "Revitalization of the work of the General Assembly" was included in the provisional agenda of the sixty-second session of the General Assembly in accordance with Assembly resolution 58/316 of 1 July 2004.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in the agenda of its sixty-second session and to allocate it to all the Main Committees for the sole purpose of considering and taking action on their respective tentative programmes of work for 2008.

3. The Sixth Committee considered the item at its 28th meeting, on 19 November (A/C.6/62/SR.28).

II. Consideration of draft decision A/C.6/62/L.21

4. At the 28th meeting, on 19 November, the Chairman introduced a draft decision on the provisional programme of work for the sixty-third session of the General Assembly as proposed by the Bureau (A/C.6/62/L.21).

5. At the same meeting, the Committee adopted draft decision A/C.6/62/L.21 (see para. 7).

6. Before the adoption of the draft decision, the representatives of the Dominican Republic (on behalf of the States Members of the United Nations that are members of the Rio Group), Uganda, Egypt, Trinidad and Tobago (on behalf of the States Members of the United Nations that are members of the Caribbean Community), New Zealand, Sierra Leone, Portugal (on behalf of the States Members of the United Nations that are members of the European Union), El Salvador, the Democratic Republic of the Congo (on behalf of the Group of African States) and Morocco made statements in explanation of position (see A/C.6/62/SR.28).

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III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Revitalization of the work of the General Assembly

The General Assembly notes that the Sixth Committee has decided to adopt the following provisional programme of work for the sixty-third session of the General Assembly, as proposed by the Bureau.

Provisional programme of work

6 October	Organization of work of the Sixth Committee
6 October and 5 November	Administration of justice at the United Nations
8, 9 and 24 October	Measures to eliminate international terrorism
10, 13 and 24 October	Criminal accountability of United Nations officials and experts on mission
13 and 14 October	The rule of law at the national and international levels
16 October	Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives
17 October	Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts
20 October	Report of the United Nations Commission on International Trade Law on the work of its forty first session
21 October	Nationality of natural persons in relation to the succession of States
22 and 23 October	Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
27 October-4 November	Report of the International Law Commission on the work of its sixtieth session
14 November	Report of the Committee on Relations with the Host Country
	Revitalization of the work of the General Assembly
	Programme planning
	Election of the officers of the Main Committees
7 and 15 October and 6 and 7 November	Reserve

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Agenda item 129

Programme planning

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

1. The item entitled "Programme planning" was included in the provisional agenda of the sixty-second session of the General Assembly in accordance with Assembly resolution 61/235 of 22 December 2006.

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to all the Main Committees and the plenary of the General Assembly to enhance discussion of evaluation, planning, budgeting and monitoring reports.

3. The Sixth Committee considered the item at its 28th meeting, on 19 November 2007, and decided that no action was required (see A/C.6/62/SR.28).

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Agenda item 137

Administration of justice at the United Nations

Report of the Sixth Committee

Rapporteur: Mr. Adam **Mulawarman Tugio** (Indonesia)

I. Introduction

1. In its resolution 61/261 of 4 April 2007, the General Assembly decided to continue the consideration of the item entitled "Administration of justice at the United Nations" during its sixty-second session as a matter of priority with the objective of implementing the new system of administration of justice no later than January 2009 (para. 36). In the same resolution, the Assembly invited the Sixth Committee to consider the legal aspects of the reports to be submitted by the Secretary-General without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters (para. 35).

2. At its 3rd plenary meeting, on 21 September 2007, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to both the Fifth and Sixth Committees in the light of resolution 61/261.

3. The Sixth Committee considered the item at its 2nd, 17th and 28th meetings, on 8 and 26 October and 19 November 2007. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/62/SR.2, 17 and 28).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the outcome of the work of the Joint Appeals Board during 2005 and 2006 and statistics on the disposition of cases and work of the Panel of Counsel (A/62/179);

(b) Report of the Secretary-General on the administration of justice (A/62/294);

07-54636 (E) 291107

(c) Report of the Secretary-General on the activities of the ombudsman (A/62/311).

5. At its 1st meeting, on 8 October, the Sixth Committee established a working group on the administration of justice at the United Nations, to fulfil the mandate entrusted to the Committee by the General Assembly in resolution 61/261, and elected Mr. Ganeson Sivagurunathan (Malaysia) as Chairman of the Working Group. The Committee also decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group held 11 meetings, from 8 to 10, from 17 to 19 and on 25 October 2007.

6. At the 17th meeting, on 26 October, the Chairman of the Working Group presented an oral report on the work of the Working Group (see A/C.6/62/SR.17).

II. Consideration of draft decision A/C.6/62/L. 22

7. At the 28th meeting, on 19 November, the representative of Malaysia, on behalf of the Bureau, introduced a draft decision entitled "Administration of justice at the United Nations" (A/C.6/62/L.22).

8. The Secretary of the Committee made a statement regarding the financial implications of the draft decision.

9. At the same meeting, the Committee adopted draft decision A/C.6/62/L.22 without a vote (see para. 11).

10. Also at the same meeting, the Committee decided that its Chairman would transmit to the Chairman of the Fifth Committee, through the President of the General Assembly, the conclusions of the Sixth Committee regarding this item. Furthermore, the Committee agreed that the Chairman of the Ad Hoc Committee on the Administration of Justice at the United Nations would inform the Chairman of the Fifth Committee, through the President of the General Assembly, of the results of the work of the Ad Hoc Committee.

III. Recommendation of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Administration of justice at the United Nations

The General Assembly takes note of the conclusions of the Sixth Committee on the administration of justice at the United Nations[1] following its consideration of the legal aspects of the report of the Secretary-General,[2] requests the Secretary-General to respond to the requests for information contained in that document, taking into account any further decisions that the General Assembly may take during its sixty-second session prior to the meeting of the Ad Hoc Committee referred to below, and decides to establish an Ad Hoc Committee on the Administration of Justice at the United Nations, to be open to all States Members of the United Nations, members of the specialized agencies or members of the International Atomic Energy Agency, for the purpose of continuing the work on the legal aspects of the item, taking into account the results of the deliberations of the Sixth Committee on the item,[3] previous decisions of the Assembly and any further decisions that the Assembly may take during its sixty-second session prior to the meeting of the Ad Hoc Committee. The Ad Hoc Committee shall meet from 10 to 18 April and on 21 and 24 April 2008, and shall report on its work to the Assembly at its sixty-third session. The General Assembly also decides to include in the provisional agenda of its sixty-third session the item entitled "Administration of justice at the United Nations".

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[1] A/C.5/62/11, appendix I.

[2] A/62/294.

[3] A/C.5/61/21, appendix I, and A/C.5/62/11, appendix II.